

RECEIVED

MAR 16 1992

Federal Communications Commission  
Office of the Secretary

WILLIAM J. PENNINGTON, III  
ATTORNEY & COUNSELOR AT LAW

2426 CONFEDERATE DRIVE  
POST OFFICE BOX 4203  
WILMINGTON, NORTH CAROLINA 28406  
TELEPHONE 919 - 762-7897

March 12, 1992

Ms. Donna Searcy  
Secretary  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

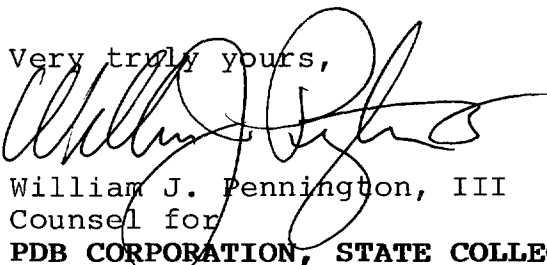
RE: Rule Making seeking channel  
upgrade for Station WUMI(FM)  
at State College, Mississippi.

Dear Ms. Searcy:

On behalf of PDB Corporation, State College, there are transmitted herewith an original and four copies of "Petition for Rule Making" seeking the substitution of Channel 283C3 for Channel 282A at State College, Mississippi.

Should additional information be necessary in connection with this matter, please communicate with this office.

Very truly yours,

  
William J. Pennington, III  
Counsel for  
PDB CORPORATION, STATE COLLEGE

Enc.  
WJP/tlt

cc: As per Certificate of Service

No. of Copies rec'd  
List A B C D E

0+4

RECEIVED

MAR 16 1992

Federal Communications Commission  
Office of the Secretary

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of )  
 )  
Amendment of Section 73.202(b) ) MM Docket No.  
FM Table of Allotments ) RM-  
(State College, Mississippi) )

To: Chief, Policy and Rules Division

PETITION FOR RULE MAKING

PDB Corporation, State College, ("PDB"), permittee of Station WUMI(FM) at State College, Mississippi, by their counsel, hereby respectfully requests that the Commission amend Rule 73.202(b), the FM Table of Allotments, to substitute Channel 283C3 for Channel 282A at State College, Mississippi. PDB further requests that its construction permit for WUMI(FM) be modified to specify operation as a C3 facility on Channel 283. WUMI(FM) is presently permitted for operation as a Class A facility.

In support of this allocation request, the following information is respectfully submitted:

1. As is demonstrated in the attached Exhibit 1, Channel 283C3 may be allotted to State College, Mississippi with a site restriction of 8.0 kilometers south of the community if the outstanding and expired construction permit for WRVR-FM (BPH-861107IC) at Memphis, Tennessee is canceled.

2. In support of the proposed cancellation of the outstanding WRVR-FM construction permit, PDB notes that the WRVR-FM construction permit was granted on March 18, 1987 outlining operation as a Class C facility. The station currently operates with Class C1 facilities. The WRVR-FM licensee did not construct the Class C facilities within the allotted eighteen month time period and requested, and was granted, an extension for the construction permit in late 1988. This construction permit extension expired on March 29, 1989. Since early 1989 no other request has been made to reinstate the expired WRVR-FM construction permit. Counsel for PDB checked with the FM Branch on March 11, 1992 and could find no record of an extension/reinstatement request or license covering the WRVR-FM construction permit being filed. It has now been five years since WRVR-FM was granted the construction permit covering operation as a Class C facility, and to PDB's knowledge, no effort has been undertaken by the licensee to effectuate the changes outlined in the construction permit. The facts strongly suggest that the licensee has had no intention of making the permitted changes since the permit expired in March of 1989.

3. PDB also notes, that the Commission has on numerous occasions stated that the "substitution of an existing station's channel at one community serves the public interest where the substitution permits the provision of new or expanded service at another community." Eddyville and Fort Madison, Iowa, 4 FCC Rcd 7774 (1989); see also Marietta, Ohio and Ravenswood, West

Virginia, 2 FCC Rcd 4681 (1987) and Albany, New York, et al., 2 FCC Rcd 4300 (1987), 3 FCC Rcd 4681 (1987). In the present case, canceling the WRVR-FM construction permit and substituting Channel 283C1 for Channel 283C at Memphis, so to reflect WRVR-FM's actual operation, would allow the use of Channel 283C3 at State College, Mississippi. The allotment of Channel 283C3 to State College would allow WUMI(FM) to greatly expand its service area.

4. If the above mentioned changes in the FM Table of Allotments are made at Memphis and State College, the permissible antenna site area for a station operating on Channel 283C3 at State College would be ample. The area where an antenna could be located is close enough so that a station operating on Channel 283C3 should have no difficulty placing a 70 dBu contour over the entire community of State College.

5. The allotment of Channel 283C3 to State College and modification of PDB's construction permit to specify operation thereon will permit PDB to serve a much larger area, thereby increasing the number of broadcast signals available to the public in the given area and thus promoting efficient use of the spectrum. The Commission has determined that expanded service to the public and spectrum efficiency provide significant public interest benefits. See Report and Order in MM Docket No. 85-313, 60 RR 2d 114, 118 (1986). Thus, PDBs' proposal would serve the public interest.

6. Because Channel 283C3 would not be available to a third

party for use at State College, PDB's construction permit may be modified to specify operation on the higher class channel pursuant to Rule 1.420(g). Upon grant of this request, PDB will proceed promptly with construction of its upgrade.

7. Based upon the foregoing, PDB hereby requests that the Commission: (i) modify its FM Table of Allotments to substitute Channel 283C3 for Channel 282A at State College, Mississippi and modify its construction permit accordingly; (ii) cancel the outstanding and expired WRVR-FM construction permit, and substitute Channel 283C1 for Channel 283C at Memphis so as to reflect the actual use of the channel in that community.

Respectfully submitted,

**PDB CORPORATION, STATE COLLEGE**

By: 

William J. Pennington, III  
Its Attorney

Post Office Box 4203  
Wilmington, NC 28406  
(919) 762-7897

March 12, 1992

**FM SPACING STUDY**

JOB TITLE: STATE COLLEGE, MISSISSIPPI  
 CHANNEL: 283C3 (104.5 mHz.)  
 COORDINATES: 33-24-00 88-53-00

Call	Channel	City	State	Bear'	Dist'	R'grd	Margin
WUMI	282A	State College	MS	61.9	12.29	89.0	- 76.71*(1)
WRVR-FM	283C(CP)	Memphis	TN	336.4	212.98	237.0	- 24.02*(2)
WBKJ	286C1	Kosciusko	MS	241.1	76.75	76.0	0.75
WRVR-FM	283C1	Memphis	TN	336.4	212.98	211.0	1.98
WACR	280A	Columbus	MS	74.2	45.43	42.0	3.43
WHSY-FM	283C1	Hattiesburg	MS	186.5	219.80	211.0	8.80
WACR	280C2(CP)	Columbus	MS	89.1	65.77	56.0	9.77
WACR	280C2(AP)	Columbus	MS	89.3	68.90	56.0	12.90
WZZK-FM	284C	Birmingham	AL	86.7	193.40	176.0	17.40
WIDO	282A	Eutaw	AL	117.9	112.56	89.0	23.56
ALC	282C3	Greenwood	MS	268.7	127.20	99.0	28.20
WGNL	282A	Greenwood	MS	277.0	119.90	89.0	30.90
ALC	281C2	Union	MS	194.0	99.05	56.0	43.05
WBKJ	286C1(CP)	Kosciusko	MS	229.6	121.08	76.0	55.08

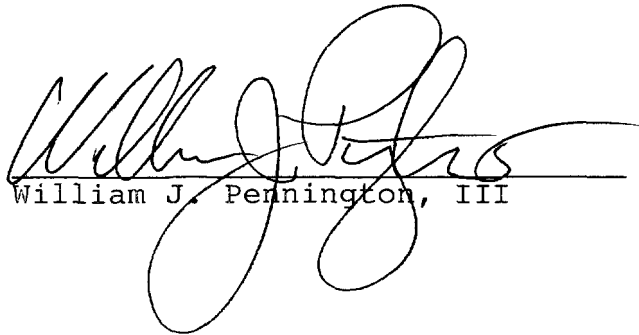
\*(1) WUMI is the station which is requesting the channel substitution, thus there is no short spacing.

\*(2) In this rule making petition it is requested that the outstanding and expired WRVR-FM construction permit covering operation as a Class C facility be canceled and Channel 283C1 be substituted for Channel 283C at Memphis which correctly reflects the use of the channel in that community. WRVR-FM operating as a C1 facility provides proper spacing so that Channel 283C3 may be substituted for Channel 282A at State College.

CERTIFICATE OF SERVICE

I hereby certify that on this 12<sup>th</sup> day of March 1992, I deposited copies of the foregoing "Petition for Rule Making" in the United States mail, first class, postage prepaid, addressed to the following:

WRVR-FM  
Keymarket Communications  
5904 Ridgeway Parkway  
Memphis, TN 38119



William J. Pennington, III